

REMARKS

The Final Office Action mailed February 9, 2009 has been received and carefully noted. Claims 1-5, 7-22, and 24-32 are currently pending in the subject application and are presently under consideration.

Claims 1, 4, 10, 15, and 22 have been amended herein. Support for the amendments may be found in at least paragraph 0023, 0031, and 0038 and Figure 3, element 509 of the Specification. A listing of claims can be found on pages 2-7 of this Response.

Favorable reconsideration of the pending claims is respectfully requested in view of the amendments and the following comments.

I. Examiner Interview Summary

The Applicants thank the Examiner for courtesies extended during the telephonic interview with Jonathan S. Miller (Reg. No. 48,534) and Olivia J. Tsai (Reg. No. 58,350) on April 22, 2009. The Examiner indicated that the amendment to independent claim 4 (“....executed by a computer processor”) would overcome the rejections of claims 4, 5, and 7-14 based on 35 U.S.C. §101. Regarding the substantive rejections, the Examiner suggested that an RCE be filed and another telephonic interview be scheduled prior to the subsequent mailing of the Office Action to further discuss amendments submitted herewith. The Applicants’ representative will call the Examiner upon filing the RCE to schedule this interview.

II. Claim Objections

Claims 15-21 are objected to for minor informalities. The Examiner suggests that “Day of the Week” be amended to recite “day of the week” in lower case letters. Appropriate correction has been made. Withdrawal of these objections is respectfully requested.

III. Rejection of Claim 10 Under 35 U.S.C. §112, Second Paragraph

Claim 10 is rejected under 35 U.S.C. §112, second paragraph for being dependent on canceled claim 6. Claim 10 has been amended to depend from claim 4. The Applicants respectfully request withdrawal of this rejection.

IV. Rejection of Claims 4, 5, and 7-14 Under 35 U.S.C. §101

Claims 4, 5, and 7-14 are rejected under 35 U.S.C. §101 as reciting a process that is not tied to another statutory class or does not transform underlying subject matter to a different state or thing. Independent claim 4 has been amended to recite “forecasting a total demand for a second time period by a demand projection module executed by a computer processor” (emphasis showing changes) and therefore ties the process to another statutory class, *i.e.*, a particular apparatus as a computer processor. The Examiner indicated in the telephonic interview on April 22, 2009 that this amendment would overcome these rejections. Withdrawal of these rejections is respectfully requested.

V. Rejection of Claims 1-3 Under 35 U.S.C. §103(a)

Claims 1-3 are rejected under 35 U.S.C. §103(a) as being obvious over Makridakis *et al.*, Forecasting Methods and Applications (1998) ("Makridakis"). The Applicants respectfully request withdrawal of these rejections because Makridakis does not teach or suggest all the limitations of the claims.

Amended independent claim 1 recites "the second weighting factor being a percentage of the demand for one subdivision out of the plurality of subdivisions of the second time period." The Examiner equates the second weighting factor with the "weighted moving average" of Makridakis (*See* Final Office Action mailed February 9, 2009, pg. 8). However, the "weighted moving average" (identified as "F" in the cited reference) is the forecast of a time period **in terms of number of shipments** after smoothing has been performed using a selected smoothing parameter " α " (*See* Makridakis, pg. 149-151). Therefore, the "weighted moving average" of Makridakis is not a **percentage of demand** for one subdivision out of a plurality of subdivisions in the time period. In view of the above, Makridakis does not teach or suggest all the limitations of independent claim 1.

Claims 2 and 3 depend from independent claim 1 and thus incorporate the limitations thereof. For at least the above reasons regarding amended independent claim 1, Makridakis does not teach or suggest all the limitations of these dependent claims. Accordingly, withdrawal of these rejections is respectfully requested.

VI. Rejection of Claims 4, 5, 7, 10, and 14 Under 35 U.S.C. §102(b)

Claims 4, 5, 7, 10, and 14 are rejected under 35 U.S.C. §102(b) as being anticipated by Makridakis. The Applicants respectfully request withdrawal of these rejections because Makridakis does not disclose each and every element of the claims.

Amended independent claim 4 recites “the second weighting factor being a percentage of the total demand for one subdivision out of the plurality of subdivisions of the second time period.” For the reasons set forth in section III of this Response, Makridakis does not disclose the second weighting factor of amended independent claim 4.

Claims 5, 7, 10, and 14 depend from independent claim 4 and thus incorporate the limitations thereof. For at least the above reasons regarding independent claim 4, Makridakis does not disclose each and every element of these dependent claims. Accordingly, withdrawal of these rejections is respectfully requested.

VII. Rejection of Claims 8, 9, and 11-13 Under 35 U.S.C. §103(a)

Claims 8 and 11-13 are rejected under 35 U.S.C. §103(a) as being obvious over Makridakis, in view of Landvater (U.S. Patent No. 6,609,101). Claim 9 is rejected under 35 U.S.C. §103(a) as being obvious over Makridakis, in view of Michael Leonard, Promotional Analysis and Forecasting For Demand Planning: A Practical Time Series Approach (2000) (“Leonard”). These claims depend from independent claim 4 and thus incorporate the limitations thereof. The Examiner does not indicate and the Applicants do not discern any part of Landvater or Leonard that cures the aforementioned deficiencies of Makridakis. For at least the above reasons regarding amended independent claim 4, Makridakis does not teach or suggest all the limitations of these

dependent claims. Accordingly, withdrawal of these rejections is respectfully requested.

VIII. Rejection of Claims 15, 17, and 21 Under 35 U.S.C. §102(b)

Claims 15, 17, and 21 are rejected under 35 U.S.C. §102(b) as being anticipated by Jordan *et al.* (U.S. Patent No. 5,289,368) (“Jordan”). The Applicants respectfully request withdrawal of these rejections because Jordan does not disclose each and every element of the claims.

Amended independent claim 15 recites “the first weighting factor being a first percentage of demand for the first day out of all days of the first week the second weighting factor being a second percentage of demand for the second day out of all days of the second week the third weighting factor being a third percentage of demand for the third day out of all days of the third week.” The Examiner asserts that Jordan discloses the first, second, and third weighting factor, but Jordan does not disclose all the aspects of the weighting factors as amended. Jordan discloses analysis on “call volume” (See Jordan, col. 8, ll. 57-60), *i.e.*, in terms of number of calls. A number of calls does not disclose the recited weighting factors of the amended claims because it is not a percentage of demand for a day out of all days of a week. Thus, Jordan does not disclose this aspect of independent claim 15.

Claims 17 and 21 depend from independent claim 15 and thus incorporate the limitations thereof. For at least the above reasons regarding independent claim 15, Jordan does not disclose each and every element of these dependent claims. Accordingly, withdrawal of these rejections is respectfully requested.

IX. Rejection of Claims 16, 18, 19, and 20 Under 35 U.S.C. §103(a)

Claims 16, 19, and 20 are rejected under 35 U.S.C. §103(a) as being obvious over Jordan, in view of Landvater. Claim 18 is rejected under 35 U.S.C. §103(a) as being obvious over Jordan, in view of Leonard. These claims depend from independent claim 15 and thus incorporate the limitations thereof. The Examiner does not indicate and the Applicants do not discern any part of Landvater or Leonard that cures the aforementioned deficiencies of Jordan. For at least the above reasons regarding amended independent claim 15, Jordan does not teach or suggest all the limitations of these dependent claims. Accordingly, withdrawal of these rejections is respectfully requested.

X. Rejection of Claims 22, 25, 26, and 28-32 Under 35 U.S.C. §102(b)

Claims 22, 25, 26, and 28-32 are rejected under 35 U.S.C. §102(b) as being anticipated by Landvater. The Applicants respectfully request withdrawal of these rejections because Landvater does not disclose each and every element of the claims.

Amended independent claim 22 recites “the weighting factor for a subdivision in the plurality of subdivisions being a percentage of the total demand for the subdivision out of the plurality of subdivisions of the time period.” The Examiner asserts that Landvater discloses the weighting factor, but Landvater does not disclose all the amended aspects of the weighting factor. Landvater discloses “user-specified weights” that represent the weight allocated to, for example, an original forecast as compared to an extrapolated sales history (*See* Landvater, col. 19, ll. 60-64). In other words, these weights set forth the level of reliance that should be allocated to each of the original forecast and the extrapolated sales history when revising a forecast. The weights of

Landvater do not disclose the weighting factor as a percentage of demand for one subdivision out of a plurality of subdivisions of a time period. Thus, Landvater does not disclose this aspect of independent claim 15.

Claims 25, 26, and 28-32 depend from independent claim 22 and thus incorporate the limitations thereof. For at least the above reasons regarding independent claim 22, Landvater does not disclose each and every element of these dependent claims. Accordingly, withdrawal of these rejections is respectfully requested.

XI. Rejection of Claims 24 and 27 Under 35 U.S.C. §103(a)

Claim 24 is rejected under 35 U.S.C. §103(a) as being obvious over Landvater, in view of Makridakis. Claim 27 is rejected under 35 U.S.C. §103(a) as being obvious over Landvater, in view of Leonard. These claims depend from independent claim 22 and thus incorporate the limitations thereof. The Examiner does not indicate and the Applicants do not discern any part of Makridakis or Leonard that cures the aforementioned deficiencies of Landvater. For at least the above reasons regarding amended independent claim 22, Landvater does not teach or suggest all the limitations of these dependent claims. Accordingly, withdrawal of these rejections is respectfully requested.

CONCLUSION

In view of the foregoing, it is believed that all claims now pending patentably define the subject invention over the prior art of record, and are in condition for allowance and such action is earnestly solicited at the earliest possible date. **If an interview has not already been scheduled, please contact Olivia Tsai or Jonathan Miller at (310) 207-3800 to discuss the amendments prior to mailing a subsequent Action.**

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2666 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17, particularly extension of time fees.

Respectfully submitted,

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Dated 5/8/2009 _____

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CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being submitted electronically via EFS Web on the date shown below to the United States Patent and Trademark Office.



Susan M. Manriquez

May 11, 2009